



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Sharlyn D. Williams, Systems Analyst/Programmer 1, Miami-Dade Information Technology Department

FROM: Gilma Diaz-Greco, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-03

DATE: January 15, 2021

CC: COE Legal Staff; Lars Schmeckel, Chief Security Officer; Edgardo Sanchez, Systems Support Manager, Security Division, Miami-Dade Information Technology Department

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your proposed outside employment.

Facts:

You are employed at the Miami-Dade Information Technology Department (ITD) as a Systems Analyst Programmer 1 in ITD's Security Division. You would like to engage in outside employment with your privately owned company SDR Crown Marketing LLC, a Florida for-profit corporation; doing business as DIOS, LLC (DIOS). Your private company is a firm that is seeking to provide transportation for children and the elderly, and which has also developed an application (App) that enables family members to track the location of those being transported.

Issue:

Whether any prohibited conflicts of interest may exist between your County employment and your proposed outside employment running DIOS.

Analysis and Opinion

Your job duties as an ITD Systems Analyst Programmer 1 include several functions. Principal job duties include being assigned as the local agency security liaison between ITD and the Miami-Dade Corrections and Rehabilitation Department (MDCR). This role includes, among several duties, serving as the MDCR Department's Criminal Justice Information System (CIJIS) representative and working with the FDLE on CIJIS access and rule implementation audits; overseeing and administering MDCR's Health Services Information system to provide clearance to Jackson Health System staff that provides services to MDRC inmates; and providing MDCR with general IT technical assistance and user registration services. Some of your other duties in the Security Division include administering ITD's online Secure IT Training database and working as an IT Elections Specialist for Miami-Dade primary and general elections. ITD employees are only granted access to County IT networks based on their job titles and duties. This means that your access to County IT systems is limited to the systems required to perform your job duties and you do not have access to any other County IT systems.

Your County job duties do not include designing any Apps. Your County job duties do not include involvement in any transportation services or contracts (including inmate transportation contracts administered by MDCR); or any other involvement in after school programs, summer camps, or elderly services provided by the County. Your outside employment would occur outside of your County hours of employment and DIOS would purchase the buses, hardware, and software for your business.

You are seeking to engage in Outside Employment with your privately owned company DIOS. DIOS is seeking to provide transportation services for children and the elderly to and from private and public day care programs. This includes marketing DIOS' services to after care and other programs provided by County departments such as the Miami-Dade Parks and Recreation Department, the Community Action Department, and the Human Services Department, and to aftercare programs provided by the Miami-Dade School Board under agreements with the County. DIOS has also developed an App which will be marketed in conjunction with transportation services. The App will enable family members to track the location of those being transported.

We have consulted with your supervisors at ITD regarding your job duties at ITD. The supervisors have advised that it is unlikely there will be any overlap or relationship between DIOS' work and the job duties that you perform at ITD's Security Division.

Several sections of the Miami-Dade Code of Ethics must be considered in analyzing whether a County employee's outside employment may create prohibited conflicts of interest.

- Sections 2-11.1(j) and (k) prohibit County employees from engaging in outside employment which creates a conflict between the County employee's public duties and his or her private interests and would therefore be likely to impair the County employee's independence of judgment in the performance of his or her official duties. Furthermore, County employees may not engage in outside employment that creates a conflict of interest between the employee's public duties and his or her personal interests. Miami-Dade Administrative Order 7-1.
- Section (g) of the County Ethics Code prohibits County employees from using their official position to obtain special privileges or exemptions for themselves or others. Overseeing, administering, being involved in the selection or recommendation of any current or future contract that the employee's outside employer may have with the county, and/or the use of County time or resources in the performance of outside employment, may constitute an "exploitation of official position" in violation of Section 2-11.1(g) of the County Ethics Code.

In addition, County Administrative Order AO 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties. It states that "Under no circumstances shall a County employee accept outside employment ... where a real or apparent conflict of interest with one's official or public duties is possible."

In this instance, your public duties as a Systems Analyst Programmer 1 at ITD do not include developing applications nor any involvement with any County administered transportation services, after care programs, or elder care programs provided by the County. Further, you will not have any business relationships with any ITD vendors; and your County job will not otherwise cause you to interact with the same or similar entities in your outside employment that you interact with in your public duties. *See* RQO 08-45 and RQO 09-16.

Consequently, based on the facts presented here, and after discussing this matter with ITD supervisory personnel, we concur with ITD that your proposed outside employment running your privately owned company DIOS is unlikely to create conflicts of interest. This is because your County job duties and the duties of your outside employment are not closely related. Your County job duties do not include developing applications or any

involvement in any County transportation matters or contracts nor in any County administered after care programs. *See* COE Outside Employment Guidelines (2019). In addition, since your outside employment would occur outside of your County hours of employment and your company would purchase the software, hardware, and other resources for your business, it is unlikely that any County resources would be used for this work. *See* COE Outside Employment Guidelines (2019) and Miami-Dade Code 2-11.

Nevertheless, you must abide by certain limitations and cautions outlined below:

- You may not use County time or resources in your outside employment. Miami-Dade Code Sec. 2-11.
- Pursuant to Miami-Dade Code Section 2-11.1(g), you may not use your County position to obtain special privileges or exemptions for yourself, for DIOS or for any DIOS clients. *See* RQO 99-40. Furthermore, use of County time or resources in the performance of your outside employment may constitute an “exploitation of official position” in violation of Section 2-11.1(g) of the County Ethics Code.
- DIOS may not enter into contracts with ITD. If DIOS were to seek to contract with any other County Department, an [ethics opinion](#) must be requested prior to contracting with another County department.
- You may not disclose any confidential information, or use any confidential information gained in your County employment to benefit yourself, DIOS, or the company’s clients. Miami-Dade Code Sec. 2-11.1(h).
- You may not represent DIO or any of its clients before any County board or agency. Miami-Dade Code 2-11.1(M)(1) and RQO 04-173.

Please also note that, as long as you are engaged in outside employment, you must obtain yearly permission to engage in outside employment in order for ITD to review any changes in your role with DIOS or in the company’s interests. You must also file an outside employment financial disclosure form ([Outside Employment Statement](#)) reporting any money received from your employment with DIOS. This form must include any money earned and must be completed even if the business is not profitable; enter \$0.00 if the company received no money. County Ethics Code Secs.2-11 and 2-11.1 (k)(2).

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. If the facts associated with the project change, please contact us for additional

guidance. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.